



PROGRAM MATERIALS

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Trust Drafting Intensive: Common Drafting Errors & How to Avoid Them

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Improper Use of Definitions

The extensive use of defined terms can be a very elegant way to draft, but only if those terms are consistently used throughout your document.

It is also best practice to include definitions in a definition section whenever possible so someone reading the document can easily locate those terms.

Moreover, when a common term is used it's best not to have a novel or surprising definition tucked in the back of your document.



What do you think is the distribution standard?

“During my husband’s life, my Trustees shall pay as much of the net income and principal of this trust, even to the extent of all or none, at any time and from time to time as my Trustee other than my husband shall determine in such Trustee’s discretion to any one or more persons within a group consisting of my husband and my issue in any degree of consanguinity living from time to time.”



Article Ten

In exercising his or her discretionary powers to pay or accumulate income and to pay principal of the trusts under this Will, my Trustee other than my husband (i) shall make such distributions only to the extent that such Trustee deems them necessary or advisable for the health, education, maintenance and support in reasonable comfort of the eligible recipient(s) thereof, or to enable any such person to maintain his or her accustomed standard of living, or for investment by such a person in any business enterprise...



Ambiguous Drafting
